

CROSS-BORDER MOVEMENT

OF BUSINESS PERSONS

AND THE NORTH AMERICAN

FREE TRADE AGREEMENT



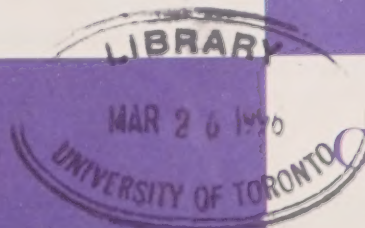
*Canada
United States
Mexico*

To promote trade in goods and services, Chapter 16 of the North American Free Trade Agreement (NAFTA) facilitates the cross-border movement of business persons who are citizens of member countries to the NAFTA. The provisions within Chapter 16 complement rather than replace a country's existing provisions for temporary entry. In addition, the NAFTA does not alter a member country's general immigration provisions governing public health, safety and national security.



Department of Foreign Affairs
and International Trade

Ministère des Affaires étrangères
et du Commerce international



Canada

This pamphlet was produced by Canada's Department of Foreign Affairs and International Trade in co-operation with Citizenship and Immigration Canada. Its purpose is to facilitate the trade in goods and services throughout member countries to the North American Free Trade Agreement. More specifically, it contains information on criteria and procedures for cross-border movement under the NAFTA as well as related immigration requirements, with the aim of making them more transparent. These guidelines pertain to Canadian business persons entering the United States and Mexico, and U.S. and Mexican business persons entering Canada.

It is important to keep in mind that what follows are guidelines, and should not be viewed as the actual legal text of the NAFTA or a member country's immigration regulations. Although basic information about fees and forms is included, this information is subject to change and should be verified before seeking entry.

For more information about Canadian, U.S. or Mexican immigration regulations, contact the relevant embassy, consulate or immigration office nearest you. Canadians who experience difficulty in entering a country for purposes of conducting business are advised to contact a Trade Policy Officer with the Department of Foreign Affairs and International Trade's Multilateral Trade Institutions Division **by telephone at (613) 944-1569** or by fax at (613) 944-0757.

NAFTA

The guidelines contained in this pamphlet cover the following four categories of business persons:

1. "Business Visitors" are business persons who plan to carry on business activity related to research and design, growth, manufacturing and production, marketing, sales and distribution, after-sales service and general service.

2. "Professionals" are business persons who plan to carry out professional activities of the types indicated in NAFTA Appendix 1603.D.1 (see attached) for an employer or on contract to an enterprise located in a member country other than their own.

3. "Intra-Company Transferees" are business persons who are employed by an enterprise to perform management or executive functions or who bring specialized knowledge to this enterprise or its subsidiaries or branches established in one of the member countries.

4. "Traders and Investors" are business persons who plan to carry out trade in goods and services principally between member countries or to establish, develop, administer or provide consulting or technical services for the administration of an investment to which foreign capital has been committed or is in the process of being committed.

Accompanying Spouses and Dependants must meet existing immigration requirements for temporary entry. In addition, unless a spouse or dependant qualifies on his/her own merit for an employment authorization under the NAFTA, he/she must go through the regular job validation process applicable to all temporary foreign workers. Information on several of these processes applicable to entering the United States are provided in the section "Non-NAFTA U.S. Temporary-Entry Visas."

1. BUSINESS VISITORS

The NAFTA allows business persons to engage in certain business activities without an employment authorization – provided they otherwise comply with existing immigration requirements applicable to temporary entry. Examples of business activities are conducting market research, marketing products, negotiating contracts or taking orders. The intent of this category is to facilitate the entry of the short-term business visitor who has no intention of entering the labour market. If you wish to work for an employer or under contract to an enterprise located in the member country to which you are seeking entry, you are not a business visitor and will need to apply under a different NAFTA category or under the general provisions applicable to temporary foreign workers.

GENERAL QUALIFYING CRITERIA

You may qualify as a business visitor if:

- you are a citizen of a member country;
- you are seeking entry for business purposes;
- the proposed business activity is international in scope;
- you have no intention of entering the labour market;
- your primary source of remuneration is outside of the country in which you are seeking entry;
- the principal place of business and the accrual of profits remain outside of the country to which you are seeking entry; and
- you meet existing immigration requirements for temporary entry.

These requirements can best be satisfied by presenting a letter setting out all the circumstances of the business trip

to an immigration officer at the port of entry. It is also recommended that you carry a passport.

CANADIAN BUSINESS VISITORS ENTERING THE UNITED STATES

Business visitors must meet the "General Qualifying Criteria" listed above. Canadian business visitors entering the United States can request a record of entry document (I-94) to facilitate temporary entry when engaged in activities requiring frequent cross-border movement or an extended stay. The I-94 is inserted into your passport and can be issued for a period of up to six months. I-94's can be obtained from U.S. ports of entry; they do not have to be applied for in advance.

CANADIAN BUSINESS VISITORS ENTERING MEXICO

Canadian business visitors entering Mexico must meet the "General Qualifying Criteria" listed above and complete an FMN form; this can be obtained at no charge from travel agencies, airlines, and Mexican immigration officers at ports of entry. The FMN asks for information such as:

- personal data;
- the type of activity to be carried out; and
- the name and address of the enterprise to which you are affiliated, as well as that of the principal enterprise or natural person in Mexico with which you will be performing the described activity or activities.

The period of validity of the FMN is 30 days but it can be extended once for an additional 30 days if the circumstances of entry into Mexico have not changed and if you are unable to leave and return to Mexico with a new FMN. The FMN must be handed back to immigration officers on departure from Mexico.

U.S. AND MEXICAN BUSINESS VISITORS ENTERING CANADA

Business visitors seeking temporary entry into Canada must meet the "General Qualifying Criteria" listed above. Generally, no immigration document is issued to a business visitor; however, if terms and conditions are imposed on your entry you will be issued a visitor record. A visitor record can also facilitate frequent cross-border entry into Canada or serve as documentation for extended stays. In addition, after-sales service personnel will be issued a visitor record if the intended stay is to be longer than two days.

TEMPORARY IMPORTATION OF GOODS

A business visitor may temporarily import certain goods duty-free. Goods that qualify are professional equipment

(tools of the trade), equipment for the press or for radio or television broadcasters, cinematographic equipment, goods for sports purposes, and goods for display or demonstration. As a condition of duty-free entry, a country may require that these goods not be sold or leased while in its territory, and that they be accompanied by a bond if they are not goods originating in the visitor's country of residence. Commercial samples, advertising films and printed advertising materials (e.g., brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourism promotional materials and posters) may also be imported temporarily without payment of duty.

In addition, none of the member countries may assess customs duty on goods that, pursuant to a warranty, are exported for repair or alteration to another member country and then are re-imported. This is true regardless of the origin of the goods and regardless of whether the goods could have been repaired or altered in the exporting member country.

EXPORTING GOODS

It is part of the Department of Foreign Affairs and International Trade's mandate to provide Canadian exporters with comprehensive information, counselling and problem-solving services related to each country's export and purchasing laws and regulations, including customs, NAFTA rules, government procurement, agricultural quotas, standards, etc. Information or assistance can be obtained from the Department's InfoCentre by telephone at 1-800-267-8376 or by fax at (613) 996-9709.

Canadian enterprises requiring additional information on U.S. or Mexican federal procurement processes for goods, services, and construction services should contact the Department's Tariffs and Market Access Division by telephone at (613) 995-3921 or by fax at (613) 992-6002. U.S. and Mexican enterprises requiring more information on Canadian government procurement processes should contact Government Services and Public Works Canada by telephone at 1-800-361-4637.

AFTER-SALES SERVICE

The purpose of a business visitor entering a member country when performing after-sales service must be to install, repair or service, or to supervise these functions, or to train workers to perform services; and in each case the activity must be pursuant to a warranty or service contract entered into as an integral part of the sale of commercial or industrial equipment, machinery or computer software purchased from an enterprise located outside of the country.

where the service is to be provided. A copy of the original sales contract for the purchase of the goods must be shown at the border, and your proposed activities must be supported by clear wording in the contract.

Those seeking entry to perform after-sales services must possess specialized knowledge essential to the seller's contractual obligation. Specialized knowledge is considered to be a very high degree of knowledge that can only be imparted to an already skilled person through extensive training.

Regardless of the existence of the wording in sales, warranty or service agreements, a business visitor is not considered to be performing after-sales service if that person is to perform hands-on building and construction work. However, a person can supervise or train workers performing installation, repair or maintenance work that involves building or construction work.

2. PROFESSIONALS

The cross-border movement of professionals listed in Appendix 1603.D.1 of the NAFTA (see attached) is facilitated between member countries. Professionals are exempt from the job-validation process normally required of individuals looking to enter a foreign country's labour market.

GENERAL QUALIFYING CRITERIA

To qualify as a professional under the NAFTA you must meet the following criteria:

- you are a citizen of a member country;
- the occupation you are to be engaged in is listed in Appendix 1603.D.1 of the NAFTA (see attached);
- you are qualified to work in the occupation in which you are to be engaged;
- you have pre-arranged employment or a contractual agreement with an entity located within the country to which you are seeking temporary entry; and
- you meet existing immigration requirements for temporary entry.

You will need to provide documentation indicating:

- the professional-level activity to be carried out;
- your job title;
- a summary of your job duties;
- the starting date and expected length of the temporary stay; and
- the arrangement for remuneration.

This documentation can take the form of:

- a signed contract between you and an enterprise; or

- a letter from your prospective employer(s) confirming that employment has been offered and accepted; or
- a letter from your present employer confirming that you are entering the member country in order to render professional services pursuant to a signed contract between your employer and an enterprise located within the country to which entry is being sought. (An enterprise can be an individual as well as an entity.)

Proof of your professional-level qualification can be demonstrated by presenting certified copies of your educational or alternative credentials. Proof of citizenship can best be demonstrated by presenting a passport. You will also need to demonstrate to immigration officers that you have no plans to reside indefinitely in the country to which you are seeking entry. Once entrance has been granted, you are entitled to work for, or provide services to, only the enterprise(s) indicated on your employment authorization. Professionals must also comply with all applicable state, provincial or local certification, registration or licensing requirements before commencing work.

SELF-EMPLOYED PROFESSIONALS

Pursuant to a contract under this category, a self-employed business person may enter a member country to engage in activities such as performing training functions relating to the profession, including conducting seminars. However, those wishing to enter solely for the purpose of either being self-employed in the country where entry is sought, or establishing a professional practice also in the country to which entry is sought, do not qualify under this category. Business persons looking to establish a business in a foreign member country may wish to investigate applying for temporary entry in either the intra-company transferee or trader-and-investor categories.

CANADIAN PROFESSIONALS ENTERING THE UNITED STATES

Professionals will be expected to meet the "General Qualifying Criteria" listed above. Application can be made at any U.S. port of entry. No forms need to be completed and determination can be made at the time of application.

You will be issued a record of entry document (I-94) indicating the classification code TN, which serves as your employment authorization. Present the I-94 to the U.S. Social Security Administration to receive a social security number. There is a US\$50 processing fee.

Professionals can renew their status annually and there is no limit on the number of years during which they can remain within the U.S. under this classification. However, when seeking renewal you will be expected to demonstrate

that the employment remains temporary, and that you continue to be qualified to work in your profession.

CANADIAN PROFESSIONALS ENTERING MEXICO

Professionals require an approved FM3 form to work in Mexico. The FM3 form can be obtained from a Mexican embassy or consulate, or from within Mexico.

You can also enter Mexico with an FMN form, which can be obtained at no charge from most travel agencies and airlines or at a Mexican port of entry. (The FM3 form is not issued at Mexican ports of entry.) The FMN form is valid for up to 30 days. However, before commencing work in Mexico, entering professionals must obtain an FM3 form from a National Migration Institute office. You will also need to obtain a professional identity card from the Directorate General of Professions of the Ministry of Education before practising your profession.

When applying for an FM3 form you will be expected to demonstrate that you meet the "General Qualifying Criteria" listed above. FM3 forms are valid for one year but can be renewed for an additional four years before a new FM3 form must be obtained. The processing fee for an FM3 form is 424 pesos, and it is usually issued within five working days.

U.S. AND MEXICAN PROFESSIONALS ENTERING CANADA

U.S. and Mexican professionals can apply for an Employment Authorization at any Canadian embassy, consulate, or port of entry. You must demonstrate that you meet the "General Qualifying Criteria" listed above. When applying at ports of entry, no written application is required and determination can be made at the time of application. The processing fee for issuing an employment authorization is C\$125. After admittance into Canada, a Social Insurance Number can be obtained from a local Canada Employment Centre.

3. INTRA-COMPANY TRANSFEREES

Intra-company transferees are business persons employed by an enterprise who are seeking to render services to a branch, parent, subsidiary or affiliate of that enterprise, in a managerial or executive capacity or in a manner that involves specialized knowledge.

The total period of stay for a person employed in an executive or managerial capacity cannot exceed seven years. The total period of stay for a person employed in a capacity that requires specialized knowledge cannot exceed five years.

GENERAL QUALIFYING CRITERIA

To qualify as an intra-company transferee you must:

- be a citizen of a member country;
- be seeking employment in an executive or managerial capacity, or one involving specialized knowledge (in the case of specialized knowledge, provide evidence that you possess such knowledge and that it is required for the proposed employment);
- have been engaged in a similar position within the enterprise for at least one year within the previous three years;
- be transferring to an enterprise that has a clear relationship with the enterprise in which you are currently employed; and
- comply with existing immigration requirements for temporary entry.

When seeking entry you will be expected to provide:

- a detailed outline of the purpose and length of stay for which entry is being sought; and
- a detailed outline of your current job description, position title and place in the organizational structure of the enterprise.

TERMS

"Branch" means an operating division or office of the same organization housed in a different location.

"Parent" means a firm, corporation or other legal entity that has subsidiaries.

"Subsidiary" means a firm, corporation, or other legal entity with a parent that owns, directly or indirectly, half or more than half of the entity and controls the entity; or that owns, directly or indirectly, 50 per cent of a 50-50 joint venture and has equal control and veto power over the entity; or that owns, directly or indirectly, less than half of the entity but in fact controls the entity.

"Affiliate" means one of two subsidiaries, both of which are owned and controlled by the same parent or individual; or one of two legal entities, owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each enterprise.

"Doing business" means the regular, systematic and provision of goods and/or services on a continuing basis by a parent, branch, or subsidiary or affiliate, and does not include the mere presence of an agent or office. (There

must be business enterprises actively "doing business" in both the country to be entered and your home country.)

"Managerial capacity" means an assignment within an organization in which the employee primarily manages the organization or a department, subdivision, function or component of the organization.

"Executive capacity" means an assignment within an organization in which the employee primarily directs the management of a major component or function of an organization.

"Specialized knowledge" means special knowledge possessed by an individual of the enterprise's product, service, research, equipment, techniques, management or other interests and the application in international markets, or an advanced level of knowledge of, or expertise in, the organization's processes and procedures.

CANADIAN INTRA-COMPANY TRANSFEREES ENTERING THE UNITED STATES

Before a Canadian intra-company transferee seeks entry to the United States, the proposed U.S. employer must submit an application to the U.S. Immigration and Naturalization Service on the "Petition for Temporary Worker" form (I-129). The fee for processing an I-129 is US\$75. In addition to meeting the "General Qualifying Criteria" listed above, the intra-company transferee must show the approved application when seeking entry at a U.S. port of entry, whereupon he/she will be issued a record of entry document (I-94) indicating an L-1 classification code. The I-94 serves as a record of entry document and employment authorization, and should be presented to the U.S. Social Security Administration for the issuance of a social security number.

CANADIAN SMALL BUSINESS OWNERS ENTERING THE UNITED STATES

A Canadian who currently owns and operates a business, and who is considering expanding into the United States, can apply as an intra-company transferee at any U.S. embassy, consulate or U.S. port of entry. You must provide a detailed business plan showing, among other things, how your expansion will result in direct local employment, and you must comply with existing immigration requirements for temporary entry. Before your temporary residency will be extended, a review will be conducted one year after entry has been granted to determine whether you have met the objectives of the business plan. You can temporarily

reside in the United States in this classification for up to seven years.

CANADIAN INTRA-COMPANY TRANSFEREES ENTERING MEXICO

Intra-company transferees require an approved FM3 form to work in Mexico. The FM3 form can be obtained from a Mexican embassy or consulate, or from within Mexico.

Intra-company transferees can also enter Mexico with an FMN form, which can be obtained at no charge from most travel agencies and airlines or at a Mexican port of entry. (The FM3 form is not issued at Mexican ports of entry.) The FMN form is valid for up to 30 days. However, before commencing work in Mexico, transferees must obtain an FM3 form from a National Migration Institute office.

When applying for an FM3 form, you will be expected to demonstrate that you meet the "General Qualifying Criteria" listed above. The FM3 is valid for one year, but can be renewed for four additional years before a new FM3 form must be obtained. The processing fee for an FM3 form is 424 pesos, and it is usually issued within five working days.

U.S. AND MEXICAN INTRA-COMPANY TRANSFEREES ENTERING CANADA

Intra-company transferees must either complete an Application for an Employment Authorization at a Canadian consulate or embassy before departing for Canada, or apply directly at a Canadian port of entry. Intra-company transferees will need to comply with the "General Qualifying Criteria" listed above before they can receive an employment authorization, which is issued initially for a period of up to one year. Extensions may be granted in increments of up to two years. There is a C\$125 processing fee for issuing employment authorizations. Upon arrival, intra-company transferees should obtain a Social Insurance Number from a local Canada Employment Centre.

4. TRADERS AND INVESTORS

Traders are business persons who conduct substantial trade in goods or services principally between their country of residence and the country into which entry is being sought. Investors are business persons seeking to establish, develop, administer, or provide advice or key technical services to the operation of an investment to which they or their enterprises have committed, or are in the process of committing, a substantial amount of capital. Employees of

traders and investors, whose job duties are supervisory or executive in nature or whose skills are essential to the efficient operation of the enterprise, may also qualify.

GENERAL QUALIFYING CRITERIA – TRADERS

When applying for trader status you must demonstrate that:

- you are a citizen of a member country;
- the enterprise has the nationality of a member country;
- your predominant activity is to carry on substantial trade in goods or services principally between your present country of residence and the country to which you are seeking entry;
- the capacity in which you will be acting is executive or supervisory in nature or involves essential skills; and
- you otherwise meet existing immigration requirements for temporary entry.

TERMS

“Nationality” of an enterprise is determined by the citizenship of those person(s) who own(s) a minimum of 50 per cent of the enterprise.

“Trade” means the exchange, purchase, or sale of goods and/or services.

“Goods” are tangible commodities or merchandise having intrinsic value, excluding money, securities and negotiable instruments.

“Services” are economic activities with outputs other than tangible goods. Such activities include, but are not limited to, banking, insurance, transportation, communications and data processing, advertising, accounting, design and engineering, management consulting and tourism.

“Substantial trade” is determined by the volume of trade conducted as well as the monetary value of the transactions.

GENERAL QUALIFYING CRITERIA – INVESTORS

When applying for investor status you must demonstrate that:

- you are a citizen of a member country;
- the enterprise has the nationality of a member country;
- substantial investment has been or is being made;
- the investment is more than a marginal one;
- the enterprise is a real and operating commercial enterprise that operates on a continuing basis to produce some service or commodity for profit;
- you are in a position to “develop and direct” the enter-

prise or, if an employee of an investor, you are in a position that is executive, supervisory or involves essential skills; and

- you comply with existing immigration requirements for temporary entry.

TERMS

“Substantiality” is determined by using a “proportionality” test in which the amount invested is weighed against either the total value of the particular enterprise in question, or the amount normally considered necessary to establish a viable enterprise of the nature contemplated. Only the amount already invested or irrevocably committed for investment can be considered in determining substantiality, and this amount should make up at least 50 per cent of the total investment required. Documentation may be required to show that funds have been either invested or irrevocably committed, and to give evidence of the various forms of investment utilized, e.g., cash, equipment, purchases, inventory, indebtedness, lease/rent payments, etc. Mere intent to invest or prospective investment arrangements entailing no current commitment of funds will not suffice. You must also demonstrate prior or present possession and control of the funds or other capital assets.

“Real and operating commercial enterprise” can best be demonstrated by presenting a business plan describing the investment, expansion, and/or development related to the enterprise.

“Marginal” investment will result in maintaining or expanding local job opportunities. Passive investment in developed or undeveloped real estate does not qualify.

“Develop and Direct” means that you have controlling interest in the enterprise. If you have less than 50-per-cent controlling interest in the enterprise, you must be able to demonstrate how, in effect, operational control will be achieved.

CANADIAN TRADERS AND INVESTORS ENTERING THE UNITED STATES

Before seeking entry into the United States, traders and investors must complete Form OF-156E, available at a U.S. embassy or consulate, and pay a US\$75 processing fee. On approval of the application, you will need to demonstrate that you comply with the “General Qualifying Criteria” listed above before being issued a record of entry document (I-94) indicating the classification code E-1 (trader) or E-2 (investor) at the U.S. port of entry. The I-94 serves as an employment authorization document, and

should be presented to the U.S. Social Security Administration for the issuance of a social security number.

CANADIAN TRADERS AND INVESTORS ENTERING MEXICO

Traders and investors require an approved FM3 form to work in Mexico. FM3 forms can be obtained from a Mexican embassy or consulate, or from within Mexico.

Traders and investors can also enter Mexico with an FMN form, which can be obtained at no charge from most travel agencies and airlines or at a Mexican port of entry. (FM3 forms are not issued at Mexican ports of entry.) The FMN form is valid for up to 30 days. However, before commencing work in Mexico, traders and investors must obtain an FM3 form from a National Migration Institute office.

When applying for an FM3 form, you will be expected to demonstrate that you meet the "General Qualifying Criteria" listed above. FM3 forms are valid for one year, but can be renewed for an additional four years before a new FM3 form must be obtained. The processing fee for an FM3 form is 424 pesos, and it is usually issued within five working days.

U.S. AND MEXICAN TRADERS AND INVESTORS ENTERING CANADA

In addition to complying with the "General Qualifying Criteria" listed above, an Application for an Employment Authorization (Form IMM1295) must be completed at a Canadian embassy or consulate prior to seeking entry. You will also be required to provide information on your business by completing an Application for Trader/Investor Status. There is a C\$125 processing fee for issuing employment authorizations. Upon arrival, traders and investors should obtain a Social Insurance Number from a local Canada Employment Centre.

CHANGING OR RENEWING STATUS

THE UNITED STATES

To obtain status as a business visitor (B-1 classification), a Canadian and his/her dependant(s) may apply from within the United States to the Immigration and Naturalization Service on Form I-539 (Application to Extend/Change Non-immigrant Status). The Immigration and Naturalization Service Form I-129 (Petition for Temporary Worker) should be used for applications to extend or change status for the professional, intra-company transferee, and trader and investor categories. Applications take up to three months to process, and a departure by the appli-

cant from the United States during the processing period can negatively affect the application process. Applications should be forwarded to:

Director
Northern Service Center
United States Immigration and Naturalization Service
100 Centennial Mall North, Room B-26
Lincoln, NE 68508

CANADA

You can extend your stay or change your temporary status while in Canada. Call the local number listed under "Immigration" in the Government of Canada Section (blue pages) of the telephone directory and ask for the application kit entitled "Applying in Canada: for Extension of Visitor Status, Student Authorization, Employment Authorization" or "Extension of Minister's Permit". The form and instructions will be mailed to you. Kits can also be picked up in person at local Canada Immigration Offices or Government of Canada InfoCentres. Applications must be submitted at least one month before your status expires, and there is a processing fee of C\$125.

MEXICO

In cases where changes in temporary residency status are being sought, you can apply in Mexico at a National Migration Institute office. In cases where extensions are being sought, you will be required to make a declaration that there has been no change in the purpose or circumstances that gave rise to your original entry. FM3 holders may request up to four extensions of one year each, and can then request a new FM3 form should they wish to remain longer. The processing fee for an FM3 form is 424 pesos, and it is usually issued within five working days.

NON-NAFTA U.S. TEMPORARY-ENTRY VISAS

PERSONS WORKING IN SPECIALTY OCCUPATIONS

A person qualified in a specialty occupation not covered under the NAFTA may still be granted temporary entry into the United States under existing temporary-entry immigration regulations. (A specialty occupation is generally defined as an occupation that requires the theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's degree in the particular specialty as a minimum for entry into the occupation.)

The U.S. employer seeking to employ a Canadian in a specialty occupation not covered under the NAFTA would

need to secure a certified Labour Condition Application (Form ETA 9035) from the U.S. Employment and Training Administration of the Department of Labour. Once secured, an I-129 petition would then need to be submitted to the U.S. Immigration and Naturalization Service. Upon approval of the I-129 petition, the individual can then apply for temporary entry at any port of entry.

You will be required to meet existing immigration requirements for temporary entry (health, safety, security, etc.) before being issued a record of entry document (I-94) indicating an H-1B classification. Photo identification will need to be shown when applying for entry.

A person working in a specialty occupation is limited to a maximum of six years in the United States with H-1B status. Initial admissions may be for a maximum of three years, with an extension of up to three years.

PERFORMING ARTISTS

Canadian performing artists (e.g., members of a Canadian entertainment group in a creative field such as music, opera, dance, theatre or the circus) who have a signed contract with an enterprise in the United States for single or multiple performances require a temporary employment visa. Canada's Department of Foreign Affairs and International Trade has produced a pamphlet entitled "Guide for Canadian Performing Artists Entering the United States." The pamphlet outlines the major provisions applicable to foreign performers under the United States Immigration Act of 1990 and the amendments and regulations instituted in September 1994. It can be obtained by contacting the Department's InfoCentre by telephone at 1-800-267-8376 or by fax at (613) 996-9709. For a more definitive interpretation of U.S. immigration law and regulations, contact the closest United States Immigration and Naturalization Service District Office or Regional Service Center, or a U.S. embassy or consulate in Canada. If you are experiencing difficulty in entering the United States as a Canadian performing artist, contact the Canadian Consulate General in New York City at (212) 596-1600.

LABOURERS

The H-2B non-agricultural category for temporary worker can be utilized by U.S.-based enterprises that require person(s) to perform temporary services or non-agricultural labour within the United States. An H-2B visa will not be issued if the labour or service to be rendered by the temporary worker is judged as displacing U.S. workers capable of performing such services or labour, or if employment of the

temporary worker adversely affects the wages and working conditions of U.S. workers.

The prospective employer must file an ETA 750 form with the local state job service office, and must demonstrate that the basic recruiting, posting, and advertising for qualified U.S. workers have been carried out. If labour certification is approved, the prospective employer must then file the I-129 petition form with the U.S. Immigration and Naturalization Service.

Once the I-129 petition is approved, the temporary worker will then be issued a record of entry document (I-94) at any port of entry. Temporary workers will be required to meet existing immigration requirements for temporary entry (health, safety, security, etc.), and applicable state or local licensing or certification requirements.

The initial period of stay authorized in the United States to H-2B temporary workers cannot exceed one year. A maximum of two one-year extensions may be granted. However, each new I-129 extension petition must be accompanied by a new labour certification.

APPENDIX 1603.D.1 TO THE NORTH AMERICAN FREE TRADE AGREEMENT

PROFESSION

MINIMUM EDUCATION REQUIREMENTS AND ALTERNATIVE CREDENTIALS

GENERAL:

Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A
Architect	Baccalaureate or Licenciatura Degree; or state/provincial licence
Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience
Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years' experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
Economist	Baccalaureate or Licenciatura Degree
Engineer	Baccalaureate or Licenciatura Degree; or state/provincial licence
Forester	Baccalaureate or Licenciatura Degree; or state/provincial licence
Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience
Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years' experience in hotel/restaurant management
Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience
Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience
Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal licence
Landscape Architect	Baccalaureate or Licenciatura Degree
Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years); or membership in a state/provincial bar
Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years' experience as a management consultant, or five years' experience in a field of specialty related to the consulting agreement

Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree
Range Manager/Range Conservationist	Baccalaureate or Licenciatura Degree
Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
Scientific Technician/Technologist	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
Social Worker	Baccalaureate or Licenciatura Degree
Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience
Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
Vocational Counsellor	Baccalaureate or Licenciatura Degree
MEDICAL/ALLIED PROFESSIONALS:	
Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial licence
Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial licence
Medical Laboratory Technologist (Canada)	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years' experience
Medical Technologist (Mexico and the United States)	
Nutritionist	Baccalaureate or Licenciatura Degree
Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial licence
Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial licence
Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial licence
Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial licence
Psychologist	State/provincial licence; or Licenciatura Degree
Recreational Therapist	Baccalaureate or Licenciatura Degree
Registered Nurse	State/provincial licence; or Licenciatura Degree
Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial licence
SCIENTISTS:	
Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
Animal Breeder	Baccalaureate or Licenciatura Degree
Animal Scientist	Baccalaureate or Licenciatura Degree
Apiculturist	Baccalaureate or Licenciatura Degree

Astronomer	Baccalaureate or Licenciatura Degree
Biochemist	Baccalaureate or Licenciatura Degree
Biologist	Baccalaureate or Licenciatura Degree
Chemist	Baccalaureate or Licenciatura Degree
Dairy Scientist	Baccalaureate or Licenciatura Degree
Entomologist	Baccalaureate or Licenciatura Degree
Epidemiologist	Baccalaureate or Licenciatura Degree
Geneticist	Baccalaureate or Licenciatura Degree
Geologist	Baccalaureate or Licenciatura Degree
Geochemist	Baccalaureate or Licenciatura Degree
Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
Horticulturist	Baccalaureate or Licenciatura Degree
Meteorologist	Baccalaureate or Licenciatura Degree
Pharmacologist	Baccalaureate or Licenciatura Degree
Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
Plant Breeder	Baccalaureate or Licenciatura Degree
Poultry Scientist	Baccalaureate or Licenciatura Degree
Soil Scientist	Baccalaureate or Licenciatura Degree
Zoologist	Baccalaureate or Licenciatura Degree

TEACHERS:

College	Baccalaureate or Licenciatura Degree
Seminary	Baccalaureate or Licenciatura Degree
University	Baccalaureate or Licenciatura Degree

TERMS:

“State/provincial/federal licence” means any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

“Post-Secondary Diploma” means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.

“Post-Secondary Certificate” means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

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